



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-073, C-570-074]

Common Alloy Aluminum Sheet from the People's Republic of China: Preliminary

Affirmative Determination of Circumvention

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of aluminum sheet produced from aluminum alloy 4017 (4017 aluminum sheet) from the People's Republic of China (China) are circumventing the antidumping (AD) and countervailing duty (CVD) orders on Common Alloy Aluminum Sheet (CAAS) from China.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Frank Schmitt, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4880.

SUPPLEMENTARY INFORMATION:

Background

On February 6 and 8, 2019, respectively, Commerce published the CVD and AD orders on imports of CAAS from China.¹ On July 7, 2022, the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its individual members (collectively, the domestic industry)² requested that Commerce initiate a circumvention inquiry with regard to

¹ See *Common Alloy Aluminum Sheet from the People's Republic of China: Countervailing Duty Order*, 84 FR 2157 (February 6, 2019); and *Common Alloy Aluminum Sheet from the People's Republic of China: Antidumping Duty Order*, 84 FR 2813 (February 8, 2019) (collectively, *Orders*).

² The individual members of Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group are: Arconic Corporation; Commonwealth Rolled Products, Inc.; Constellium Rolled Products Ravenswood, LLC; Jupiter Aluminum Corporation; JW Aluminum Company; and Novelis Corporation.

4017 aluminum sheet that is exported to the United States from China.³ In its Circumvention Request, the domestic industry alleged that 4017 aluminum sheet constitutes merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Orders*, pursuant to section 781(c) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.226(j).⁴ The domestic industry requested that Commerce conduct this circumvention inquiry on a country-wide basis.⁵

On August 26, 2022, Commerce published in the *Federal Register* the notice of initiation of this circumvention inquiry.⁶ In the *Initiation Notice*, Commerce initiated the circumvention inquiry on the basis of the minor alterations allegation, pursuant to section 781(c) of the Act and 19 CFR 351.226(j).⁷ Commerce initiated the inquiry on a country-wide basis.⁸ For a complete description of events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.⁹

Scope of the *Orders*

The merchandise covered by the *Orders* is common alloy aluminum sheet from China. For a complete description of the scope of the *Orders*, *see* the Preliminary Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers aluminum sheet produced from aluminum alloy 4017 produced in China and exported to the United States. A complete description of the merchandise subject to the circumvention inquiry is contained in the Preliminary Decision Memorandum.

³ *See* Domestic Industry’s Letter, “Request for Circumvention Ruling Pursuant to Section 781(C) of the Tariff Act of 1930, as amended,” dated July 7, 2020 (Circumvention Request).

⁴ *Id.*

⁵ *Id.* at 20.

⁶ *See Common Alloy Aluminum Sheet from the People’s Republic of China: Initiation of Circumvention Inquiry of the Antidumping and Countervailing Duty Orders – 4017 Aluminum Sheet*, 87 FR 52509 (August 26, 2022) (*Initiation Notice*), and accompanying Initiation Decision Memorandum.

⁷ *Id.*

⁸ *Id.*

⁹ *See* Memorandum, “Common Alloy Aluminum Sheet from the People’s Republic of China: Preliminary Affirmative Determination of Circumvention for 4017 Aluminum Sheet,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Methodology

Commerce is conducting this circumvention inquiry pursuant to section 781(c) of the Act and 19 CFR 351.226(j). For a complete description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Preliminary Affirmative Determination of Circumvention

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that 4017 aluminum sheet produced in China and exported to the United States constitutes merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Orders*, pursuant to section 781(c) of the Act and 19 CFR 351.226(j). We also preliminarily determine that this affirmative circumvention finding should be applied on a country-wide basis.

Use of Adverse Facts Available

Pursuant to section 776(a) of the Act, if the necessary information is not available on the record, or an interested party withholds requested information, fails to provide requested information by the deadline or in the form and manner requested, or significantly impedes a proceeding, Commerce shall use the facts otherwise available in reaching the applicable determination. Moreover, pursuant to section 776(b) of the Act, Commerce may use inferences adverse to the interests of an interested party in selecting from among the facts otherwise

available if the party fails to cooperate by not acting to the best of its ability to provide requested information.

Commerce requested quantity and value (Q&V) information from eleven companies including Chalco Ruimin Co Ltd (Chalco Ruimin); Chalc-Swa Cold Rolling Co. Ltd (Chalc-Swa Cold Rolling); Jiangsu Alcha Aluminum Co Ltd (Jiangsu Alcha); Nanjie Resources Co Limited (Nanjie Resources); and Yantai Jintai International Trade Co., Ltd. (Yantai Jintai).¹⁰ Commerce also requested information in a circumvention questionnaire from Zhengzhou Mingtai Aluminum Industry Co., Ltd. and Henan Mingtai Aluminum Industry Co., Ltd. (collectively, Mingtai),¹¹ the producer/exporter that accounted for the substantial majority of entries of inquiry merchandise during the relevant period. In the Q&V questionnaire and circumvention questionnaire,¹² Commerce explained that failure to respond may result in the presumption that the company failed to cooperate by not acting to the best of its ability to comply with the request for information, and Commerce may use an inference that is adverse to the company's interests in selecting from the facts otherwise available, in accordance with section 776(b) of the Act. Chalco Ruimin, Chalc-Swa Cold Rolling, Jiangsu Alcha, Nanjie Resources, and Yantai Jintai failed to respond to Commerce's quantity and value questionnaire, and Mingtai failed to respond to Commerce's circumvention questionnaire.

Therefore, we preliminarily find that necessary information is not available on the record and that Chalco Ruimin, Chalc-Swa Cold Rolling, Jiangsu Alcha, Nanjie Resources, Yantai Jintai, and Mingtai failed to provide requested information by the deadline or in the form and manner requested, and significantly impeded this inquiry pursuant to sections 776(a)(1) and (2)(A)-(C) of the Act. Moreover, we find that these companies failed to cooperate by not acting to the best of their ability to provide the requested information because they did not provide a

¹⁰ See Memorandum, "Notification of Issuance of Quantity and Value Questionnaires to Certain Chinese Companies," dated September 28, 2022 (Notification of Q&V Memorandum).

¹¹ Mingtai was the sole mandatory respondent selected for individual examination; see Memorandum, "Respondent Selection," dated December 1, 2022.

¹² See Notification of Q&V Memorandum at Attachment 1; see also Commerce's Letter, "Circumvention Inquiry," dated January 19, 2023, at 3.

timely response to Commerce's questionnaires. Consequently, for this preliminary determination we are relying on adverse inferences with respect to Chalco Ruimin, Chalc-Swa Cold Rolling, Jiangsu Alcha, Nanjie Resources, Yantai Jintai, and Mingtai in selecting from among the facts otherwise available on the record, pursuant to section 776(b) of the Act.

For details regarding the adverse facts available used in this preliminary determination, *see* the Preliminary Decision Memorandum.

Suspension of Liquidation

In accordance with 19 CFR 351.226(l)(2), we will direct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of previously suspended entries and to suspend liquidation of all entries of 4017 aluminum sheet produced in and exported from China that are entered, or withdrawn from warehouse, for consumption on or after August 26, 2022 (*i.e.*, the date of the publication of the *Initiation Notice*).¹³ Pursuant to 19 CFR 351.226(l)(2), we will also instruct CBP to require AD and CVD cash deposit rates in effect for CAAS for each unliquidated entry of 4017 aluminum sheet produced in and exported from China that have been entered, or withdrawn from warehouse, for consumption on or after August 26, 2022.¹⁴ These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

Public Comments

Pursuant to 19 CFR 351.226(f)(4), interested parties may submit case briefs or other written comments within 14 days of the date of publication of this notice; seven days thereafter, interested parties may submit rebuttal comments. In accordance with 19 CFR 351.226(f)(4), no new factual information will be accepted in the comments or rebuttal comments.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant

¹³ *See Initiation Notice.*

¹⁴ *See Orders.*

Secretary for Enforcement and Compliance within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of the issues to be discussed. If a request for a hearing is made, parties will be notified of the date and time for the hearing at a later date. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

All submissions must be filed electronically and received successfully in their entirety via ACCESS by 5:00 p.m. Eastern Time on the date that they are due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁵

Notification to Interested Parties

This determination is published in accordance with section 781(c) of the Act and 19 CFR 351.226(g)(1).

Dated: April 6, 2023.

Abdelali Elouaradia,
Deputy Assistant Secretary for Enforcement and Compliance.

¹⁵ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

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